

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: LOWER MANHATTAN DISASTER
SITE LITIGATION

EUGENE JASTRZEBOWSKI, MARIAN
RETELSKI, AND NOEL VELEZ,

Plaintiffs,

v.

CITY OF NEW YORK, et al.,

Defendants.

21 MC 102 (AKH)

ECF Cases

Civil Action Nos. 06cv05289

10cv06868

10cv06869

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO DISMISS CITY
DEFENDANTS FROM PLAINTIFFS' COMPLAINTS**

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This joint motion is brought by Plaintiffs Eugeniusz Jastrzebowski, Marian Retelski, and Noel Velez (“Plaintiffs”) together with Defendants the City of New York, Board of Education of the City of New York, the Department of Business Services, the Department of Education of the City of New York and the New York City School Construction Authority (collectively, the “City Defendants”) who respectfully submit this Memorandum of Law in Support of their Joint Motion to Dismiss Plaintiffs’ Claims **against City Defendants only**.

ARGUMENT

After thorough and detailed arms-length settlement negotiations, Plaintiffs and the City Defendants’ Insurer, the WTC Captive Insurance Company, Inc. (“WTC Captive”), have agreed to settle the claims brought by Plaintiffs Jastrzebowski, Retelski, and Velez **against the City Defendants only**. These cases were settled on an individual basis by sophisticated counsel with experience in both litigating these claims and negotiating settlements. The parties have finalized the settlement documents and the WTC Captive has wired payments to Plaintiffs’ Counsel pursuant to the terms of those confidential settlement agreements. While Plaintiffs have settled their claims against the City Defendants, they wish to continue to litigate their claims against the remaining defendants in each of their individual actions. Therefore, pursuant to the direction of the Court and Fed. R. Civ. P. 41(a)(2), counsel for Plaintiffs and counsel for the City Defendants jointly submit this motion to **dismiss only the City Defendants** from Plaintiffs’ complaints with prejudice.

CONCLUSION

For all the foregoing reasons, Plaintiffs and the City Defendants respectfully request that the Court grant their motion to dismiss the City Defendants from Plaintiffs' complaints with prejudice.

Dated: November 28, 2012

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